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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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EXAMINER	
NAJARIAN, LENA	
ART UNIT	PAPER NUMBER
3626	

MAIL DATE	DELIVERY MODE
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Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary	Application No.	Applicant(s)	
	09/992,991	PENNY ET AL.	
	Examiner	Art Unit	
	LENA NAJARIAN	3626	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE *3* MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☒ Responsive to communication(s) filed on *17 January 2008*.

2a)☐ This action is **FINAL**. 2b)☒ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) *1-23* is/are pending in the application.

4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☒ Claim(s) *1-23* is/are rejected.

7)☐ Claim(s) _____ is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.

10)☐ The drawing(s) filed on _____ is/are: a)☐ accepted or b)☐ objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12)☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a)☐ All b)☐ Some * c)☐ None of:

1.☐ Certified copies of the priority documents have been received.

2.☐ Certified copies of the priority documents have been received in Application No. _____.

3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1) ☒ Notice of References Cited (PTO-892)
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) ☐ Information Disclosure Statement(s) (PTO/SB/08) Paper No(s)/Mail Date _____.
4) ☐ Interview Summary (PTO-413) Paper No(s)/Mail Date. _____ .
5) ☐ Notice of Informal Patent Application
6) ☐ Other: _____.

DETAILED ACTION

Notice to Applicant

1. In view of the appeal brief filed on 1/17/08, PROSECUTION IS HEREBY REOPENED. New grounds of rejection are set forth below.

To avoid abandonment of the application, appellant must exercise one of the following two options:

(1) file a reply under 37 CFR 1.111 (if this Office action is non-final) or a reply under 37 CFR 1.113 (if this Office action is final); or,

(2) initiate a new appeal by filing a notice of appeal under 37 CFR 41.31 followed by an appeal brief under 37 CFR 41.37. The previously paid notice of appeal fee and appeal brief fee can be applied to the new appeal. If, however, the appeal fees set forth in 37 CFR 41.20 have been increased since they were previously paid, then appellant must pay the difference between the increased fees and the amount previously paid.

A Supervisory Patent Examiner (SPE) has approved of reopening prosecution by signing below:

/C Luke Gilligan/

Supervisory Patent Examiner, Art Unit 3626

Claim Rejections - 35 USC § 103

2. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

> (a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

3. Claims 1-9, 14, 15, 18-23 are rejected under 35 U.S.C. 103(a) as being unpatentable over Jacobus et al. (U.S. 2005/0209891 A1) in view of Kehr et al. (U.S. 2003/0036683 A1), and further in view of Evans (5,924,074).

(A) As per claim 1, Jacobus discloses an apparatus for displaying medical information derived from a plurality of sources, said apparatus comprising:

a communication processor for acquiring medical parameters associated with a patient including patient laboratory results, (Jacobus, Abstract; Figs. 12, 14, ¶18, 51, 55) (medical records, clinical observations and medical imagery are considered to be medical parameters including patient laboratory results);

a processor for collating acquired medical parameters for storage in a database, and allocating visual attributes to the acquired medical parameters for identifying at least one of (i) newly acquired laboratory test results and (ii) patients associated with a particular care unit, (Jacobus, Abstract; Figs. 7, 13, 15, ¶ 263,264) (disclosing organizing and aggregating newly acquired test results and other medical parameters including laboratory test data received from remote instruments and other particular patient data, said organizing and aggregating being a form of collating and allocating visual attributes to the acquired medical parameters, and, disclosing access of specific records and

instruments by time/date and also billing data that includes date information. Any field name describing a database file is considered to be a visual attribute to the extent described in Applicant's specification); and

a device for searching said database of acquired medical parameters to find specific laboratory test results based on one or more of (a) a text string identifying a portion of a lab test name, (b) a patient identifier, and (c) a date, for display of the acquired medical parameters and allocated visual attributes in a desired order, (Jacobus, Fig. 10-14; Abstract; ¶18, 51, 55, 56)(disclosing retrieval and display of specific records based on names and authorization codes).

Jacobus fails to disclose an image processor for generating a display image including a first data window for displaying the specified laboratory results and a second navigation window displaying a date field and a time field for individually received laboratory messages and allocated visual attributes are displayed in said navigation window adjacent individual date and time fields and identifying newly acquired laboratory test results. However, such an image processor is well known in the art as evidenced by Kehr and Evans.

Kehr discloses a second navigation window displaying a date field and a time field for individually received laboratory messages and allocated visual attributes are displayed in said navigation window adjacent individual date and time fields and identifying newly acquired laboratory test results (Kehr, Figs. 6-8).

Evans discloses a first data window for displaying the specified laboratory results (see Fig. 7 and col. 7, lines 6-40 of Evans).

At the time of the invention, it would have been obvious to a person of ordinary skill in the art to combine the aforementioned features of Kehr and Evans within Jacobus. The motivation for doing so would have been to use a real-time, time- and-event driven method to assist patients and their caregivers in proper health management (Abstract and paragraph 138 of Kehr) and to track the review of patient data (col. 7, lines 20-22 of Evans).

(B) As per claim 2, Jacobus discloses wherein said network is at least one of an internet or intra-net compatible network (Jacobus, Abstract; ¶18).

(C) As per claim 3, Jacobus discloses wherein said collation processor orders said acquired patient laboratory results by criteria including at least one of (a) test type, (b) date, and (c) patient (Jacobus, Abstract; Figs. 2, 10, 12, 13) (user assesses "orders" data using criteria such as: data "test" type; patient, and date).

(D) As per claim 4, Jacobus discloses wherein said searching is based on additional criteria including at least one of (a) patient name, (b) caregiver identifier, (c) text identifying a diagnosis, and (d) text identifying a procedure (Jacobus, Abstract; Figs. 2, 10, 12, 13) (user assesses "searches" data using criteria such as: patient and/or data type. Data type is considered to include text identifying a diagnosis or procedure).

(E) As per claim 5, Jacobus discloses wherein said communications processor acquires said test results from said plurality of sources using network protocols including one or more of (a) ASTM and (b) HL7 (Jacobus, ¶10).

(F) As per claim 6, Jacobus discloses wherein said communication processor continuously acquires said results from one or more of (a) a hospital intranet, and (b) a patient monitoring system (Jacobus, Abstract, ¶ 18, 51, 57).

(G) As per claim 7, Jacobus discloses wherein said system acquires and displays other information together with said test results in a composite display window, said other information including one or more of (a) ventilator status, (b) diagnosis information, (c) care unit identifier, (d) procedure, (e) caregiver indicator, and (f) laboratory test results indicator (Jacobus, Fig. 15, ¶44, 50, 52, 55, 69-315) (providing a comprehensive list of information acquired and displayed that is considered to include diagnosis information and care unit identifier. In particular, see ¶¶129-213, detailing technician and physician features).

(H) As per claim 8, Jacobus discloses a menu generator for generating a window for displaying said specific test results (Jacobus, Fig. 15, ¶44, 50, 52, 55, 69).

(I) As per claim 9, Jacobus discloses wherein said menu generator comprises an internet browser (Jacobus, Fig. 15, ¶44, 50, 52, 55, 69).

(J) As per claim 14, Jacobus discloses an internet compatible method for displaying medical information derived from a plurality of sources, comprising steps of:

acquiring medical parameters associated with a patient including patient laboratory results, (Jacobus, Abstract; ¶18) (medical records, clinical observations and medical imagery are considered to be medical parameters including patient laboratory results);

collating said acquired medical parameters for storage in a database (Jacobus, Abstract; ¶18); and

searching said database of acquired medical parameters to find specific laboratory test results based on one or more of (a) a text string identifying a portion of a lab test name, (b) a patient identifier, and (c) a date, for display in a desired order (Jacobus, Abstract; Fig. 10; ¶18); and

allocating visual attributes to the acquired medical parameters for identifying at least one of newly acquired laboratory test results and patients associated with a predetermined care unit (Jacobus, Abstract; Figs. 7, 15, ¶ 263, 264) (disclosing organizing and aggregating newly acquired test results and other medical parameter including laboratory test data received from remote instruments and other particular patient data, said organizing and aggregating being a form of collating and allocating visual attributes to the acquired medical parameters).

Jacobus fails to disclose generating a display image including a first data window for displaying the specified laboratory results and a second navigation window displaying a date field and a time field for each receiving laboratory message; said allocated visual attributes being displayed in said navigation window adjacent each date and time field and identifying newly acquired laboratory test results. However, such an image processor is well known in the art as evidenced by Kehr and Evans.

Kehr discloses a second navigation window displaying a date field and a time field for each receiving laboratory message; said allocated visual attributes

being displayed in said navigation window adjacent each date and time field and identifying newly acquired laboratory test results (Kehr, Figs. 6-8).

Evans discloses a first data window for displaying the specified laboratory results (see Fig. 7 and col. 7, lines 6-40 of Evans).

The motivation to combine Jacobus, Kehr, and Evans is as provided in the rejection of claim 1 and incorporated herein by reference.

(K) As per claim 15, Jacobus discloses the step of generating a window for displaying said laboratory test results (Jacobus, Fig. 15, ¶44, 50, 52, 55, 69).

(L) As per claim 18, Jacobus discloses the step of generating a first navigator window displaying results of a search and a second window including data representing parameters corresponding to a specific search result (Jacobus, Fig. 15, ¶44, 50, 52, 55, 69) (disclosing a first displaying navigator window results of a search in the form of patient records, and a second window including data representing parameters corresponding to a specific search result in the form of an individual record being created or updated).

(M) As per claim 19, Jacobus discloses the step of generating a display including data representing information associated with patients meeting predetermined criteria (Jacobus, Fig. 5, 15, ¶18, 23, 44, 50, 52, 55, 69) (disclosing generating a display with data representing information associated with patients meeting predetermined criteria, said predetermined criteria being disclosed in the form of search terms, filter criteria or medical parameters).

(N) As per claim 20, Jacobus discloses a display generator for generating a first navigator window displaying results of a search and a second window including

data representing parameters corresponding to a specific search result (Jacobus, Fig. 15, ¶44, 50, 52, 55, 69) (disclosing a first displaying navigator window results of a search in the form of patient records, and a second window including data representing parameters corresponding to a specific search result in the form of an individual record being created or updated).

(O) As per claim 21, Jacobus discloses wherein said display generator generates a display including data representing information associated with patients meeting predetermined criteria (Jacobus, Fig. 5, 15, ¶18, 23, 44, 50, 52, 55, 69) (disclosing generating a display with data representing information associated with patients meeting predetermined criteria, said predetermined criteria being disclosed in the form of search terms, filter criteria or medical parameters).

(P) As per claims 22 and 23, Kehr discloses a system and method wherein said image processor generates a component display for displaying medical information for a plurality of patients; said allocated visual attributes being displayed in said component display and identifying newly acquired laboratory test results of corresponding patients (Kehr, Figs. 6-8) (TestDateTime field identifying newly acquired laboratory test results).

The motivation to combine Jacobus and Kehr is as provided in the rejection of claim 1 and incorporated herein by reference.

4. Claims 10-13, 16 and 17 are rejected under 35 U.S.C. 103(a) as being unpatentable over Jacobus et al., (U.S. 2005/0209891 A1), in view of Kehr et al.

(U.S. 2003/0036683 A1), in view of Evans (5,924,074), and further in view of Cairnes (U.S. 6,139,494).

(A) As per claim 10, Jacobus, Kehr, and Evans fail to expressly disclose wherein said allocated attribute identifies unreviewed test results. However, Cairnes discloses such a system (Cairnes, Abstract; Fig. 6,7,8, col. 8, lines 56-65, and col. 9, lines 1-8).

It would be obvious to one of ordinary skill in the art to modify Cairnes to include an attribute for determining the status of review of information in view of these attributes. The motivation would have been to ensure that lab results are timely reviewed.

The motivation to combine Jacobus, Kehr, and Evans is as provided in the rejection of claim 1 and incorporated herein by reference.

It would have been obvious to one of ordinary skill in the art at the time of the invention to add Carnes to the combination of Jacobus, Kehr, and Evans. The motivation would have been to alert a personal health advisor if the data exceeded predefined medical parameters (Cairnes, Abstract).

(B) As per claim 11 and 13, Jacobus, Kehr, and Evans fail to expressly disclose an apparatus wherein said attribute is a predetermined color. However, Cairnes discloses such an apparatus (Cairnes, Abstract; Fig. 6,7,8, col. 6, line 37 - co1. 7, line 17; col. 8, line 56 - col. 9 lines 8).

Cairnes fails to expressly disclose the use of a color attribute. However, Cairnes discloses numerous attributes for display on a user interface, including: touch screen displays, message lights, and graphical representations. Examiner

considers these display attributes to include colors in such a manner as they are commonly found in graphs, screens and charts to better convey information to the viewer.

The motivation to combine Jacobus, Kehr, and Evans is as provided in the rejection of claim 1 and incorporated herein by reference.

The motivation to add Cairnes is as provided in the rejection of claim 10 and incorporated herein by reference.

(C) As per claim 12, Jacobus and Kehr fail to expressly disclose an apparatus wherein said collation processor allocates an attribute for identifying laboratory test results that are outside a predetermined range level. However, Evans discloses such a system (col. 7, lines 5-40 of Evans).

At the time of the invention, it would have been obvious to a person of ordinary skill in the art to combine the aforementioned feature of Evans within Jacobus and Kehr. The motivation for doing so would have been to annotate the file with pertinent indications (col. 7, lines 5-40 of Evans).

(D) As per claim 16, Jacobus, Kehr, and Evans fail to expressly disclose a method displaying an attribute identifying unreviewed test results. However, Cairnes discloses such a system (Cairnes, Abstract; Fig. 6,7,8, col. 8, lines 56-65, col. 9, lines 1-8).

It would be obvious to one of ordinary skill in the art to modify Cairnes to include an attribute for determining the status of review of information in view of these attributes. The motivation would have been to ensure that lab results are timely reviewed.

The motivation to combine Jacobus, Kehr, and Evans is as provided in the rejection of claim 1 and incorporated herein by reference.

The motivation to add Cairnes is as provided in the rejection of claim 10 and incorporated herein by reference.

(E) As per claim 17, Jacobus and Kehr fail to expressly disclose a method further comprising the step of allocating an attribute for identifying laboratory test results that are outside a predetermined range level. However, Evans discloses such a system (col. 7, lines 5-40 of Evans).

At the time of the invention, it would have been obvious to a person of ordinary skill in the art to combine the aforementioned feature of Evans within Jacobus and Kehr. The motivation for doing so would have been to annotate the file with pertinent indications (col. 7, lines 5-40 of Evans).

Response to Arguments

5. Applicant's arguments with respect to claims 1 and 14 have been considered but are moot in view of the new ground(s) of rejection.

6. Applicant's additional arguments filed 1/17/08 have been fully considered but they are not persuasive. Applicant's arguments will be addressed hereinbelow in the order in which they appear in the response filed 1/17/08.

(1) Applicant argues that Cairnes does not disclose "said allocated attribute identifies unreviewed test results."

(A) As per the first argument, the Examiner respectfully submits that Cairnes discloses generating medical alerts (see col. 8, lines 56-62 of Cairnes). Cairnes discloses that the alert is entered in the daily agenda as a high priority "to do" (the Examiner interprets the alert to be a form of attribute). As such, it is readily apparent that alerts are provided for test results that have not yet been reviewed.

Conclusion

7. Any inquiry concerning this communication or earlier communications from the examiner should be directed to LENA NAJARIAN whose telephone number is (571) 272-7072. The examiner can normally be reached on Monday - Friday, 9:30 am - 6:00 pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, C. Luke Gilligan can be reached on (571) 272-6770. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see http://pair-direct.uspto.gov. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/L. N./
Examiner, Art Unit 3626
ln
5-6-08

/C Luke Gilligan/
Supervisory Patent Examiner, Art Unit 3626